

Notice of Meeting and Agenda



Midlothian Council

Venue: Council Chambers,
Midlothian House, Dalkeith, EH22 1DN

Date: Tuesday, 26 March 2019

Time: 11:00

Director, Resources

Contact:

Clerk Name: Verona MacDonald

Clerk Telephone: 0131 271 3161

Clerk Email: verona.macdonald@midlothian.gov.uk

Further Information:

This is a meeting which is open to members of the public.

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1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declaration of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Deputations

None received.

5 Minutes

Minute of Meeting of Midlothian Council of 12 February 2019 submitted for approval as a correct record.

Minutes of Meetings for noting, information and consideration of any recommendations contained therein - Minute Volume attached.

Minute Volume Index 5 - 6

6 Questions to the Council Leader

None received.

7 Motions

7.1 Motion by Councillor Parry, seconded by Councillor McCall 7 - 8

7.2 Motion by Councillor Alexander, seconded by Councillor Baird 9 - 10

7.3 Motion by Councillor Hardie, seconded by Councillor Munro 11 - 12

7.4 Motion by Councillor Lay-Douglas, seconded by Councillor Smail 13 - 14

8 Public Reports

8.1 Publication of the local authority's spending of over £500 - Report by Director Resources 15 - 18

8.2 Strategic Development Plan for Edinburgh and South East Scotland (SESplan): Ratification of 2019-20 Operating Budget - Report by Director, Education, Communities and Economy 19 - 34

8.3	Free Personal Care for under 65's - Report by Head of Adult Services	35 - 66
8.4	Amendment to IJB Integration Scheme - Report by Director Resources	67 - 70
8.5	Service Plans 2019-20 - Report by Chief Executive	71 - 74

(A) TO CONSIDER RESOLVING TO DEAL WITH THE UNDERNOTED BUSINESS IN PRIVATE IN TERMS OF PARAGRAPHS 1, 6, 8, 9 AND 11 OF PART 1 OF SCHEDULE 7A TO THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973 - THE RELEVANT REPORTS ARE THEREFORE NOT FOR PUBLICATION; AND (B) TO NOTE THAT NOTWITHSTANDING ANY SUCH RESOLUTION, INFORMATION MAY STILL REQUIRE TO BE RELEASED UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 OR THE ENVIRONMENTAL INFORMATION REGULATIONS 2004.

9 Private Reports

9.1 Midlothian Libraries - Post Office Co-Location - Report by Head of Customer and Housing Services (Acting)

- 6. Information relating to the financial or business affairs of any particular person (other than the authority).
- 8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
- 9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.

9.2 Chief Officers – Update on Procedures – Report by Chief Executive (To Follow).

10 Date of Next Meeting

The next meeting will be held on Tuesday 7th May 2019 at 11.00am

Midlothian Council Minute Volume



**Presented to the Meeting
of Midlothian Council
on Tuesday, 26 March 2019**

1 Minutes of Meetings submitted for Approval

Midlothian Council 12 February 2019 1 - 40

2 Minutes of Meetings submitted for Consideration

Approved Minutes for Noting, Information and Consideration of any recommendations contained therein

Standards Committee 17 January 2018 41 - 44

Audit Committee 25 September 2018 45 - 52

Police and Fire and Rescue Board 19 November 2018 53 - 56

Local Review Body 14 January 2019 57 - 60

Cabinet 15 January 2019 61 - 70

Planning Committee 22 January 2019 71 - 88

Audit Committee 29 January 2019 89 - 94

3 Minutes of Meetings submitted for Information

Approved Minutes of Outside Organisations to which Council appoints representatives

Midlothian Integration Joint Board 6 December 2018 95 - 106

Short Life Working Group

Land and Countryside Cross Cutting Service Review 17 January 2019 107 - 110



SNP Group

Notice of Motion

Midlothian Council recognises and congratulates Midlothian resident, Jasmin Paris, on her recent success completing the Montane Spine Race, from Derbyshire to the Borders – in 83 hours, 12 minutes and 23 seconds.

This council also notes and congratulates her for breaking the course record.

Proposed by:
Councillor Kelly Parry

Seconded By:
Councillor Debbie McCall



30/01/2019

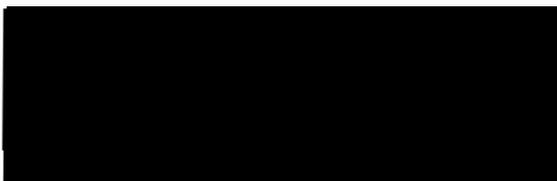


SNP Group

Notice of Motion

Midlothian Council agrees that we need to follow in the footsteps of Westminster, and bring our portfolios, and Committees into the 21st century. It cannot be right that we expect those who may be very ill, bereaved, having maternity or paternity time off, etc., to turn up to vote or take their place at a meeting or committee. By continuing in the present way, where only the designated committee member can take part in the meeting, we risk a democratic deficit where all parties, and therefore constituents are not fully represented. It makes sense therefore that we allow a stand in, substitute to take their place. We recommend a cross party group be formed to discuss and bring the present system up to date.

Proposed by:
Councillor Dianne Alexander



Seconded By:
Councillor Kenneth Baird



11/03/2019



Midlothian Council Conservative Group

Midlothian Council recognises that Leadburn Junction is one of the most dangerous junctions in Midlothian, and has seen some significant accidents. While improvements have been made, council recognises that a roundabout would be the preferred solution to this accident blackspot. Scottish Borders Council has passed a motion on the 28th of January urging them to engage with Midlothian Council and offer officer support in improving Leadburn Junction. Council therefore agree to engage with Scottish Borders and to bring forward a paper with revised costings for securing a roundabout to council before summer recess. Council also agrees that officers will engage with Scottish Borders and any other relevant partners to secure additional support for a roundabout.

Council resolves to:

1. To engage with officers at Scottish Borders Council to seek support for a roundabout a Leadburn Junction
2. Instructs the Director, Resources to bring forward a paper to Council before summer recess 2019 with updates costings for a roundabout at Leadburn Junction
3. Further instructs the Director, Resources to seek any other avenues of support or funding to assist with a roundabout.

Proposed by:



Councillor Andrew Hardie

Seconded by:



Councillor Kieran Munro

Date: 12 March 2019



Midlothian Council Conservative Group

Midlothian Council recognises the importance of vehicle transport to local residents. Council agrees that for many local residents a car is a necessity and not a luxury item. As such Council resolves to ensure that residents will not face, directly or indirectly a charge known as 'the workplace car park tax', estimated at around £500, for attending work places in Midlothian.

Secondly, many Midlothian residents – those who commute to work in Edinburgh- would pay the tax to Edinburgh Council, such that Midlothian Council would receive no financial benefit.

Further, Council will write to Edinburgh Council to urge them not to introduce this damaging and regressive tax, which disproportionately affects families on lower incomes throughout the Lothian's.

Council resolves to:

1. Agree not to implement a Work Place Parking Tax within the term of this Council as it is a negative and regressive action
2. Acknowledge that responsible car use is essential for many Midlothian Residents
3. Instructs the Chief Executive to write to Edinburgh Council to advise them of the detrimental effect introducing a workplace parking tax would have on Midlothian Residents.
4. Commends instead positive moves to encourage alternative transport modes where appropriate, such as the recently announced Sheriffhall Roundabout cycle lane proposals.

Proposed by:



Councillor Janet Lay-Douglas

Seconded by:



Councillor Peter Smail

Date: 12th March 2019

Publication of the local authority's spending of over £500.00

Report by Director Resources

1 Purpose of Report

This report is presented to update the Council on the request for publication online of the local authority's spending of over £500.00.

2 Background

2.1 Council Motion

At its meeting on 18 December, 2018 the Council considered and agreed the following motion.

Midlothian Council recognises the importance of transparency and accountability. The Council applauds Local Government in England which has allowed scrutiny of local authority spending by publishing all spending of over £500 online, detailing both the supplier used and the reason for the spending. Council agrees that Midlothian should investigate adopting this approach whereby all payments to suppliers over £500 are published online. This will allow more effective public scrutiny of spending and help avoid waste.

Council resolves to:

- 1. Investigate the feasibility and cost implication of adopting a similar approach whereby all spending over £500 will be published online, to include both the supplier used and the reason for the spend; thus providing transparency in relation to spending and public scrutiny thereof;*
- 2. Instructs the Director, Resources to report to the meeting of the Council on 12 February 2019 detailing the feasibility and cost implications of publishing, as far as permitted by law, spending of over £500 online and;*
- 3. Further instructs the Director, Resources to investigate and report back to a meeting of the Council by the 2019 summer recess other ways to make Midlothian Council more transparent and accountable to the public with regard to spending.*

- 2.2 English local authorities are required to publish expenditure via The Local Government Transparency Code 2015. The Local Government (Transparency Requirements) (England) Regulations 2015 regulates the Code. Councils in England are publishing the data either on a monthly or quarterly basis. Information links are provided:

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

<http://www.legislation.gov.uk/uksi/2015/480/contents/made>

- 2.3** In publishing the local authority's available information of spending of over £500.00 the move will give local people the information they need to ask questions of how the council is managing the services they provide and their interest in how the Council manages the assets they hold.
- 2.4** This will help effective engagement and democratic accountability as Midlothian Council develops its Medium Term Financial Strategy as local people and service users engage in consultation about what services they would like provided and how they would like them delivered.

3 Actions since December Council

- 3.1** The Director, Resources and relevant officers have reviewed the prospects of implementing the Council decision, through existing systems to minimise cost implications, and report that while the aim is to be as transparent as possible, in some cases there is a need to respect information that could be seen as commercially sensitive.
- 3.2** Where necessary, and to protect confidentiality, the supplier identity may also be withheld. In the option for publishing transactions for values greater than £500 to external suppliers or spend incurred in providing services it is proposed that it will not include:
- payments made to staff
 - sensitive personal information, such as individual foster carer payments
 - any payments which may reveal details about an individual
 - internal charges between different parts of the Council
- 3.3** There is an existing extract and reporting tool that generates our Statutory Performance Indicator information for payment of invoices within 30 days. This can be used as the basis for publishing supplier spend information. It also includes Purchasing Card spend.
- 3.4** Publishing a list of payments for all payments through the Purchase Ledger is possible, however, at present would include things like payments to other public organisations e.g. Treasury Management runs to millions of pounds.
- 3.5** The Purchase Ledger payments also includes payments to individuals and there is no means of distinguishing between a supplier and an individual in Integra Systems. Personal identifier information could not be disclosed for GDPR Data Protection reasons.
- 3.6** Cost Centre Name and Expense head listings can be published although in its present format this would likely be relatively meaningless in the public domain.
- 3.7** In publishing the narrative attached to a payment, as the reason for the spend, personal information may be included in that e.g. agency invoices, corporate appointees. Personal identifier information could not be disclosed for GDPR Data Protection reasons.

4 Report Implications

4.1 Resource

In progressing actions towards increasing openness and transparency these are presently being utilised within existing resources. Any additional resource required will be notified to Council in a subsequent report.

4.2 Risk

In order to minimise risk relating to personal information we will apply Section 38 of the Freedom of Information (Scotland) Act 2002 (FOISA) exemptions in any publication.

As part of our commitment to increase openness and transparency we will review in published payments made to individuals or sole traders, so that we reduce risk and remove the supplier names to comply with GDPR, replacing with 'Redacted – Personal Data' from a software solution.

4.3 Policy

Strategy

The promotion of the concept of transparency and accountability is in accordance with the Council's aims.

Consultation

No consultation has taken place to date.

Equalities

No equalities issue or people impact

Sustainability

No sustainability issues

3 Recommendations

The Council is invited to:

- a) note the initial scoping work to date and that an implementation plan is to be provided by the Director, Resources to Council by 25 June, 2019 and;
- b) additional opportunities for transparent and accountable measures are to be reported to Council by 25 June, 2019.

8 March, 2019

Report Contact:

Kevin Anderson Tel No 0131 271 3102
kevin.anderson@midlothian.gov.uk

Strategic Development Plan for Edinburgh and South East Scotland (SESplan): Ratification of 2019/20 Operating Budget

Report by Dr Mary Smith Director of Education, Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to present the minutes of the SESplan Joint Committee meeting of 26 November 2018 and to seek ratification for the SESplan operating budget for 2019/20.

2 Background

- 2.1 SESplan is the Strategic Development Plan for Edinburgh and South East Scotland and covers six Council areas including City of Edinburgh, East Lothian, Midlothian, West Lothian, the Scottish Borders and the southern half of Fife. SESplan works in partnership with the six member authorities to prepare the strategic vision for the region for the next 20 years (2018-2038). The plan is also used to inform local development plans.
- 2.2 At its meeting of 26 November 2018 the Joint Committee considered a report on the current operating budget and approved the operating budget for 2019/20. The Joint Committee, in accordance with established procedures, requires the member authorities to ratify the budget decisions. The minute of the SESplan Joint Committee meeting of 26 November 2018 is attached to this report as Appendix A, and the associated SESplan Joint Committee Finance Report is attached as Appendix B.

2018/19 Budget

- 2.3 The operating budget for 2018/19, approved in November 2017, estimated a total expenditure of £183,248. The updated position at November 2018 estimated expenditure of £103,562 resulting in a forecast underspend of £79,686, which represents a 43% saving on the approved budget for the year. The budget variance is a consequence of; reducing the SESplan core team (in part because of the uncertainty surrounding strategic planning matters arising from the Planning Bill's progress through the Parliamentary process) and by deferring transport modelling and appraisal work to support the preparation of Supplementary Guidance on Cross Boundary Developer Contributions until 2019/20.

2019/20 Approved Operational Budget

- 2.4 The budget for 2019/20 sets out total expenditure of £108,100. Using reserves and underspend from 2018/19 it is proposed that nil contributions are made by the SESplan member authorities in 2019/20.

- 2.5 Staffing assumptions for 2019/20 include; an SDP Manager (0.2 FTE), the work of SESplan being resourced from the six member authorities and project managed by the SESplan Project Board (which comprises the Planning Managers from the six authorities). Other fixed costs related to rents payable, travel and mobile line rental will be zero as there will be no dedicated SESplan core team. The largest proposed spend includes the running and maintenance costs of Objective Connect (the SESplan document management system) and the online SESplan consultation portal at £12,500 and the operation and running of the SESplan email and web site at £2,900. These costs together with the Audit costs of £3,400 (incurred by Audit Scotland) will remain the same as 2018/2019.
- 2.6 The proposed Strategic Development Plan (SDP2) has been subject to examination by Scottish Government Reporters and is with the Scottish Ministers for final consideration. The main work streams for 2019/20 include finalising Supplementary Guidance on the Green Network for submission to Ministers; preparation of draft Supplementary Guidance on Cross Boundary Developer Contributions; and the preparation, publication and advertising of post approval documents including the post adoption SEA Statement, Habitats Regulation Appraisal and the Action Programme.

SESplan Operational Budget Going Forward

- 2.7 Future operating budgets will be required to be reviewed against the outcome of the ongoing planning review. An amended Planning Bill was published on 16 November 2018 following stage 2 of the parliamentary process, the timescales for finalising the Bill at stage 3 are not yet known. There remains uncertainty regarding the requirement for, and future role and remit of strategic planning and strategic planning authorities as well as any associated funding and governance requirements.
- 2.8 It should be noted that following a year of nil contributions, unless SESplan as an authority is formally wound down over the next year, member contributions will be required in 2020/21, as the budget reserves will have been used in the 2019/20 financial year.

3 Report Implications

3.1 Resource

Using reserves and savings from 2018/19 means that there is a nil contribution for SESplan member authorities in 2019/20. This may not be the case in future financial years subject to the outcome of the ongoing planning review.

3.2 Risk

There is no risk associated with ratifying the nil contribution budget for 2019/20, however subject to the outcome of the ongoing planning review member authority contributions may be required in 2020/21 towards SESplan or other strategic partnership. Budget issues will continue to be reviewed as the Planning Bill progresses to stage 3 of

the parliamentary process and further details regarding strategic planning are known.

3.3 Single Midlothian Plan and Business Transformation

The development plan process is relevant to the themes of adult health, care and housing; Improving opportunities in Midlothian; and sustainable growth.

3.4 Key Priorities within the Single Midlothian Plan

The Strategic Development Plan provides the spatial land use and development framework for the SESplan area for the next 20 years. It also provides a framework for the preparation and adoption of the next Midlothian Local Development Plan. Both documents are vital components in ensuring economic growth and business support opportunities across Midlothian.

3.5 Impact on Performance and Outcomes

The Strategic Development Plan is prepared in partnership with the five other SESplan partner Councils and once approved forms the basis for the preparation of the second Midlothian Local Development Plan (MLDP) in due course.

3.6 Adopting a Preventative Approach

The SDP provides strategic guidance and forward planning for investment in future growth and development in the wider city region, including Midlothian, over the period from 2018 to 2038. Together with the MLDP, it will help to inform the future spending priorities of the Council and its community planning partners as well as other public, private and voluntary sector bodies.

3.7 Involving Communities and Other Stakeholders

The SESplan Main Issues Report was the subject of public consultation and the Proposed Plan was published for a period of representations in line with the SESplan Development Plan Scheme participation scheme. The latest Development Plan Scheme (No. 11) outlines the progress of SDP2 preparation to date, the engagement activities undertaken throughout the process and the further steps following approval of the plan.

3.8 Ensuring Equalities

The SDP Main Issues Report and Proposed Plan were the subject of an Equalities and Human Rights Impact Assessment, approved by the SESplan Joint Committee and ratified by the member Councils.

3.9 Supporting Sustainable Development

The SDP is subject to Strategic Environmental Assessment (SEA). A post adoption SEA Statement will be prepared following approval of the plan by Ministers.

3.10 IT Issues

There are no IT issues arising from this report.

4 Recommendations

4.1 Council is recommended to:

- a) note the minutes of the SESplan Joint Committee meeting of 26 November 2018;
- b) note that updated forecast expenditure of £103,562 against the approved SESplan operating budget for 2018/19; and
- c) ratify the 2019/20 SESplan operating budget of £108,100 (funded from SESplan reserves – with a nil contribution from member authorities including Midlothian).

Date: 19 March 2019

Report Contact: Peter Arnsdorf, Planning Manager
Tel No 0131-271-3310
peter.arnsdorf@midlothian.gov.uk

Background Papers:

SESplan Joint Committee minute of meeting of 26 November 2018 and the associated SESplan Joint Committee finance report.



MINUTE of MEETING of the SESplan JOINT COMMITTEE

held in the European Room, City Chambers, Edinburgh

on Monday, 26th November, 2018 at 2.00 p.m.

Present: Councillor John Beare, Fife Council (Convener)
Councillor Russell Imrie (Vice-Convener)
Councillor Maureen Child, City of Edinburgh Council
Councillor Neil Gardiner, City of Edinburgh Council
Councillor Norman Hampshire, East Lothian Council

Apologies: Councillor Stuart Bell, Scottish Borders Council
Councillor Altany Craik, Fife Council
Councillor Dom McGuire, West Lothian Council
Councillor Cathy Muldoon, West Lothian Council

In Mrs Alice Miles, SESplan

Attendance: Mr John Inman, City of Edinburgh Council
Ms Pam Ewen, Fife Council
Mr Iain McFarlane, East Lothian Council
Mr Peter Arnsdorf, Midlothian Council
Mr Brian Frater, Scottish Borders Council
Mr Craig McCorrison, West Lothian Council
Miss Michelle McDermott, Fife Council (Clerk)

1. **ORDER OF BUSINESS AND ANY URGENT MATTERS**

The Convener confirmed that he was not aware of any urgent business and that the order of business was as per the agenda.

2. **DECLARATIONS OF INTEREST**

None.

3./

3. MATTERS ARISING

An update was provided on the ratification by SESPlan member authorities of the amended SESPlan Constitution, Financial Rules, Scheme of Delegation and Standing Orders which had been approved by the Joint Committee on 25th June, 2018.

DECISION

The Committee NOTED the update on the ratification of the governance schemes.

4. MINUTES OF THE PREVIOUS MEETING HELD ON 25TH JUNE, 2018

The minute of meeting of 25th June, 2018 had been circulated.

DECISION

The Committee APPROVED the minute as a correct record.

5. STRATEGIC DEVELOPMENT PLAN 2

There had been circulated a report by Mrs. Alice Miles, SESplan updating members on the progress of Strategic Development Plan (SDP) 2 following its examination which had concluded on 20th July, 2018. The Committee noted in particular the modifications by the Reporter to the housing supply targets and that final approval by the Ministers was still awaited.

DECISION

The Committee AGREED -

1. to note the update on the examination and approval of SDP2 as set out in the report.

6. AUDITED ACCOUNTS AND REPORT OF AUDIT 2017/18

There had been circulated a report by Mrs. Alice Miles, SESplan presenting the SESplan audited accounts 2017/2018 for SESplan Joint Committee consideration.

DECISION

The Committee AGREED -

1. to note the SESplan audited accounts 2017/2018 attached as Appendix 1 to the report and as signed by the Convener, Acting SDP Manager and SESPlan Treasurer on the 14th September, 2018;

2./

2. to note the Report of Annual Audit 2017/18, attached as Appendix 2 to the report.

7. **FINANCE**

There had been circulated a report by Mrs. Alice Miles, SESplan presenting an update on the SESPlan Operating Budget for 2018/19 and setting out the SESPlan Operating Budget for 2019/20 for Committee approval.

DECISION

The Committee AGREED -

1. to note the updated forecast expenditure against the approved Operating Budget for 2018/19 set out in Appendix 1 to the report;
2. to approve the updated Operating Budget for 2019/20 set out in Appendix 1 to the Report;
3. to note that member contributions for financial year 2019/2020 are nil;
4. to note that member authorities would be required to ratify the above decisions; and
5. to note that an Operating Budget for 2020/21 would be brought to a meeting of the SESPlan Joint Committee in late 2019.

8. **RISK MANAGEMENT**

There had been circulated a report by Mrs. Alice Miles, SESplan including an update on risk management for Joint Committee information.

DECISION

The Committee noted the update on risk management.

9. **SESPLAN JOINT COMMITTEE WORK PLAN**

There had been circulated a report by Mrs. Alice Miles, SESplan setting out the Work Plan for the Joint Committee to the end of 2019.

DECISION

The Committee AGREED:-

1. to approve the SESPlan Joint Committee Work Plan, as set out in Appendix 1 to the report.

10./

10. **AOCB**

In closing the formal business of the Committee, the Convener passed on the thanks and appreciation of all SESPlan members and officers for the hard work and diligence of Alice Miles, as this was her last meeting before taking on a new role elsewhere.

The meeting concluded at 2.55 p.m.

ITEM 8 – FINANCE

Report By: Alice Miles, Acting SDP Manager

Purpose

This report presents an update on the SESplan Operating Budget for 2018 / 2019 and sets out the SESplan Operating Budget for 2019 / 2020 for Joint Committee approval.

Recommendations

It is recommended that the SESplan Joint Committee:

1. Note the updated forecast expenditure against the approved Operating Budget for 2018 / 2019 set out within Appendix 1 to this Report;
2. Approve the updated Operating Budget for 2019 / 2020 set out within Appendix 1 to this Report;
3. Note that member contributions for financial year 2019 / 2020 are nil;
4. Note that member authorities will be required to ratify the decisions above;
5. Note that an Operating Budget for 2020 / 2021 will be brought to a meeting of the SESplan Joint Committee in late 2019.

1. Background

- 1.1 The SESplan Financial Rules set out that Operating Budgets for the next financial year should be proposed by the SDP Manager, approved by the SESplan Joint Committee and that decision ratified by the member authorities by the end of December.
- 1.2 In compliance with these rules, the SESplan Joint Committee at its meeting on the 27 November 2017 agreed to approve the Operating Budget for 2018 / 2019.

2. SESplan Operating Budget 2018 / 2019

- 2.1 The latest position on the SESplan Operating Budget for 2018 / 2019 as at November 2018 is included as Appendix 1.

- 2.2 The largest spend by SESplan is on staffing. As set out in Appendix 1, the approved Operating Budget 2018 / 2019 includes a total staffing budget of £75,000. There is a saving in staffing of around £20,100. This primarily relates to the part time SDP Manager / Lead Officer position and vacant posts. The post of graduate planner was vacated in May 2018 and the SDP Manager and Lead Officer positions will be vacant from the 4 January 2019.
- 2.3 The Operating Budget for 2018 / 2019 also includes other fixed costs relating to training, rent and accommodation, travel, IT hardware, software and maintenance and audit / professional fees. The forecast sets out underspend in these areas of around £2,200. This is related in particular to rent and accommodation. The Core Team from May 2018 has been made up of one member of staff, the rental agreement with West Lothian has therefore been updated to reflect the requirement for one desk. This has resulted in an underspend of around £2,500.
- 2.4 The approved 2018 / 2019 Operating Budget also includes an allowance of £73,500 for variable costs. This includes for spend on the examination, technical support, printing and advertising.
- 2.5 The largest spend in 2017 / 2018 was related to the Examination. Costs for the Examination accrued in 2017 / 2018 totalled £14,700. Further costs in 2018 / 2019 were £8,600, making a total spend on the SDP2 Examination of £23,300.
- 2.6 A total of £65,000 was included within the Budget for technical support. A sum of £60,000 was included within this for further transport modelling / appraisal work to be undertaken in support of the Supplementary Guidance on Cross Boundary Developer Contributions. A working group made up of officers from within the Member Authorities and Transport Scotland has been convened. The modifications to the Plan recommended by the reporter have changed the scope of this work, therefore the spend will likely fall into the 2019 / 2020 financial year. There will be a continuous review of additional work required in this area with an assessment of resources available in-house undertaken first to ensure best value and minimal spend where possible. Partnership funding will also be sought.
- 2.7 A sum of £5,000 has also been allocated within the technical support budget to the provision of technical GIS and mapping support from the City of Edinburgh. SESplan does not have any mapping or GIS capability / expertise and mapping has been required in support of the Supplementary Guidance on Green Networks and in finalising the graphics within the Plan itself to pick up on modifications required by the Reporter.

2.8 Across the entire Operating Budget for 2018 / 2019, the updated position as at November 2018 is a forecast underspend of £79,686. This represents a 43% saving on the approved Operating Budget for 2018 / 2019.

3. SESplan Operating Budget 2019 / 2020

3.1 Over the first few months of the 2019 / 2020 financial year, the SESplan work programme will be focussed on finalising the Supplementary Guidance on Green Network Priority Areas for submission to Ministers, preparation of draft Supplementary Guidance on Transport and Developer Contributions and preparation of post approval documents such as the post adoption SEA statement, Habitats Regulation Appraisal and the Action Programme. The latter are required to be prepared within three months of the approval of the second Strategic Development Plan (SDP) (the report of the examination was submitted to Ministers on the 24 July 2018, with a decision on the approval of SDP2 to be made within two months, a decision is currently awaited).

3.2 The staffing assumptions for 2019 / 2020 include SDP Manager (0.2FTE). The work of SESplan will be resourced via the member authorities, project managed by the Project Board.

3.3 For other fixed costs within 2019 / 2020, costs related to rents payable, travel and mobile line rental will be zero as there will be no dedicated SESplan Core Team based within Civic Centre in Livingston. The largest spend is IT which includes the running and maintenance of Objective Connect and the online SESplan Consultation Portal at £12,500 and the operation and running of the SESplan email and website (£2,900). These costs together with the Audit costs incurred by Audit Scotland will remain the same as 2018 / 2019.

3.4 The technical support budget of £65,000 has been rolled forward into the 2019 / 2020 financial year. The largest spend within this area will be on transport assessment and modelling. A sum of £5,000 has been allocated for other technical spend on GIS and graphics should it be required.

3.5 A sum of £1,000 has been allocated for printing and photocopying which will include the printing and publication of supplementary guidance, post approval documents and the development plan scheme. Copies are required to be provided to every library in the SESplan area, neighbouring authorities and planning receptions. A sum of £1,000 has also been allocated to advertising and marketing should any further advertising of the Plan and / or any supporting documents including the supplementary guidance be required.

3.6 As detailed in Appendix 1, the Budget for 2019 / 2020 sets out total expenditure of £108,100. Using the reserves built up in 2018 / 2019 and on the savings and staffing assumptions outlined above, it is proposed that nil contributions are made by the SESplan member authorities in 2019 / 2020. This will result in a usable reserve balance going into 2020 / 2021 of £12,718 which is in excess of the £9,008 one month's operating costs target reserve.

4. SESplan Operating Budget Going Forward

4.1 The consultation on the future of the Scottish planning system (Places, People and Planning) was published in January 2017. This sets out that strategic development plans should be removed from the system so that strategic planners can support more proactive regional partnership working.

4.2 The amended [Planning Bill](#) following Stage 2 of the parliamentary process was published on the 16 November 2018. For the purposes of assisting Scottish Ministers in the preparation of the National Planning Framework (NPF), Ministers may direct a planning authority, or two or more planning authorities, to provide information on the housing needs of the population of the area, the capacity of education and health services, health needs, housing needs of older and disabled people and infrastructure amongst other matters including the principal physical, cultural, economic, social, built heritage and environmental characteristics of the area.

4.3 For SDPs, the amended Bill refers to the preparation of an evidence report instead of a main issues report prior to the preparation of an SDP. The Bill also refers to the Strategic Development Planning Authority (SDPA) being able to request that an adjoining local authority that is not part of the strategic authority provides relevant information to the evidence report for the SDP for their area.

4.4 NPF and LDP will cover a 10 year timeframe whilst no change to the 5 year SDP cycle has been made.

4.5 Whilst the Bill has progressed, more detail on the work, role and remit of SESplan and the requirement for strategic planning beyond 2019 / 2020 other than the work programme referred to above and statutory requirements around audit, finance and governance is not clear. Timescales for Stage 3 of the Bill are not yet known. On that basis indicative Operating Budgets beyond 2019 / 2020 are not shown in Appendix 1.

- 4.6 Future Operating Budgets will be required to be reviewed against the outcome of the ongoing planning review. This will continue to be reviewed as the Planning Bill is published and further details are known.
- 4.7 It should be noted that following a year of nil contributions, unless SESplan as an authority is formally wound down over the next year, member contributions will be required into 2020 / 2021, as the reserves built up will have been used in 2019 / 2020. Work into 2020 / 2021 may be limited solely relating to statutory requirements around finance and audit or resources may be required to take forward the preparation of the evidence report for the next SDP. More will be known as the Bill progresses over the next year.

Appendices

Appendix 1	2018 / 2019 Operating Budget, Forecast and Variance and 2019 / 2020 Operating Budget
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Report Contact

Alice Miles, Acting SDP Manager

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Description	2018 / 2019 Operating Budget Approved at Joint Committee November 2017	2018 / 2019 Forecast at November 2018	2018 / 2019 Variance - Approved Operating Budget vs. Forecast	2019 / 2020 Operating Budget
Staff	75,000	54,055	20,945	15,500
Training	1,000	0	1,000	0
Rents Payable (including Service Charge)	4,292	1,787	2,505	0
Travel	1,500	1,885	-385	0
IT Hardware, Software and Maintenance	15,500	15,500	0	15,500
Mobile Line Rental	206	415	-209	0
Audit / Professional Fees	3,400	3,400	0	3,400
Miscellaneous	1,500	2,210	-710	0
Total Fixed Costs	102,398	79,252	23,146	34,400
Examination	0	8,600	-8,600	0
Technical Support	65,000	5,000	60,000	65,000
Printing / Photocopying	4,000	4,000	0	1,000
Postages / Franking	500	500	0	0
Advertising / Marketing	4,000	4,000	0	1,000
Contingency 10%	7,350	2,210	5,140	6,700
Total Variable Costs	80,850	24,310	56,540	73,700
Total Expenditure	183,248	103,562	79,686	108,100
Member Authority Contributions	60,000	60,000	0	0
Income / Interest on Revenue Balance	0	0	0	0
Total Income	60,000	60,000	0	0
Net	-123,248	-43,562	-79,686	-108,100
Take From / Add to Reserves	-123,248	-43,562		-108,100
Usable Reserve Balance (Reserves at 31 March 2018 £164,380)	41,132	120,818		12,718
Usable Reserves as % of Expenditure	22.4%	116.7%		11.8%
Target Reserve (1 Month's Operating Costs)	15,271	8,630		9,008
Shortfall / Surplus on Target Reserve	25,861	112,188		3,710

Free Personal Care for under 65's

Report by Alison White, Head of Adult Services

1 Purpose of Report

Free personal care is currently available for everyone aged over 65 who have been assessed as needing it. From the 1st April the Scottish Government has committed to extending this to people under 65 as well.

This means that where people have been assessed as needing help with tasks such as bathing, going to the toilet, incontinence laundry, help with preparing food, assistance with medication, dressing and getting up and going to bed they will no longer have to pay for the service.

This report is identifying the work undertaken to ensure implementation within Midlothian.

2 Background

- 2.1** Free Personal Care for those aged 65 or over was introduced in Scotland in 2002. A feasibility study was conducted by the Scottish Government into the extension of free personal care for under 65's, this was published in 2017.
- 2.2** Free personal care is available to all adults assessed by a Local Authority as needing this service by 1st April 2019. The local authority measure eligibility for those applying for personal care.
- 2.3** Important benefits include increased uptake of services and charging arrangements for personal care applying equitably regardless of age, condition or means. In addition some people who may have declined support due to concerns about costs can now receive services if eligible.

3 Report Implications

3.1 Resource

Nationally a figure of £30 million has been made available for the implementation of Frank's Law. The Midlothian share of this is £0.480 million. The financial impact of Frank's Law will be both in terms of a reduction in service user income, as personal care for people under 65 will no longer be a chargeable service, but also in terms of increased demand for a service which will be free.

Work is ongoing to assess the impact on service user income however, it should be noted that the future impact on demand is uncertain at the moment but is likely to increase over time.

- 3.2** Guidance has been provided which sets out key actions required by local authorities/Health and Social Care Partnerships to ensure measured, consistent and effective implementation across Scotland. The guidance does not prescribe how personal care should be calculated as it was found that each local authority's practices and procedures differ and it is intended to enable each local authority to follow and build on its own current local procedures and systems.

Local authorities/Health and Social Care Partnerships will wish to have clarity on:

- The definition of personal care;
- Funding of the extension of free personal care;
- How personal care should be calculated;
- How free personal care should work alongside the principle of enablement;
- Clear communication within local authorities providing information relating to the changes in the extension of free personal care and having the opportunity to raise these concerns at a local level.

Guidance is being provided for staff who complete assessments and staff within our finance team are already working to ensure that those who are already receiving free personal care have this applied to their financial assessment.

3.2 Risk

Whilst a positive introduction the key risk is around increased demand on services. There is already a shortfall in delivery of care at home and any increasing demand on this will be challenging.

Currently those under 65 receive a mixed level of provision, not all of which is personal care, therefore for individuals they may not notice any difference to their monthly charges as they may still require to pay for housing support and other non-personal care tasks.

An increase in demand may also increase challenges for accessing social work services generally, whilst positive work has been undertaken to address waiting times, any increase in demand will have an impact.

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- Community safety
- Adult health, care and housing
- Getting it right for every Midlothian child
- Improving opportunities in Midlothian
- Sustainable growth
- Business transformation and Best Value
- None of the above

3.4 Impact on Performance and Outcomes

None

3.5 Adopting a Preventative Approach

None

3.6 Involving Communities and Other Stakeholders

Through the feasibility work of the Scottish Government there has been significant work to ensure that the views of those who use services have been taken into account.

Public Information is being shared within our newsletters, planning groups and provider organisations.

3.7 Ensuring Equalities

The application of free personal care regardless of age addresses a long standing inequity of provision.

3.8 Supporting Sustainable Development

None

3.9 IT Issues

None

4 Summary

Free personal care is currently available for everyone aged over 65 who have been assessed as needing it .From the 1st April the Scottish Government has committed to extending this to people under 65 as well.

This means that where people have been assessed as needing help with tasks such as bathing, going to the toilet, incontinence laundry, help with preparing food, assistance with medication, dressing and getting up and going to bed they will no longer have to pay for the service.

This report is identifying the work undertaken to ensure implementation within Midlothian.

5 Recommendations

As a result of this report what are Members being asked to:-

- Note the work undertaken within Midlothian to ensure implementation of Free Personal Care for under 65's
- Note the risks associated with the implementation.
- Note the improved equity of application of free personal care, regardless of age, condition or means

Date 28 February 2019

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Background Papers: Circular CCD3/2018



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Circular No. CCD3/2018

COSLA
Health and Social Care Partnership, Chief Officers
Health and Social Care Partnership, Chief Finance
Officers
Local Authority Chief Finance Officers
Local Authority, Chief Executives
Local Authority Chief Social Work Offices
Social Work Scotland Self-directed Support Practice
Forum
Social Work Scotland Adult Social Care Committee

21 December 2018

Dear Colleagues

Free Personal Care Guidance

Background

The Cabinet Secretary for Health and Sport, Ms Jeane Freeman, and the COSLA Health and Wellbeing Spokesman, Councillor Peter Johnston, wrote a joint letter to you in July 2018 regarding The Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 which come into force on 1 April 2019 and which extends free personal care to those under the age of 65.

The Scottish Government has been working with an Implementation Advisory Group which consists of members from Scottish Government, COSLA, local authorities, Integration Authorities and service providers. The Group has helped to draft statutory guidance to local authorities that outlines the provision of free personal care to those both over and under the age of 65.



Additionally, in his Budget statement on 12 December, the Cabinet Secretary for Finance, Economy and Fair Work announced that the Scottish Government would provide £30 million in 2019-20 to implement our commitment to extend Free Personal Care to Under 65s.

Action

Local Authorities should replace existing Free Personal and Nursing Care in Scotland with the updated Guidance, which is attached.

Free Personal Care

Free Personal Care is available to all adults who are assessed by their local authority as needing this service by **1 April 2019**. Local Authorities will be required to continue to measure the eligibility of those applying for personal care and those who are assessed as needing this service who will receive this service free of charge regardless of their age, condition, socio-economic status or marital status.

Definition of Personal Care

Schedule 1 of the 2002 Act in conjunction with section 20 of Schedule 12 of the Public Service Reform (Scotland) Act 2010 provides the definition of personal care which is shown at Annexes B and C in the guidance.

Funding

There will be two elements of funding for social care in the year 2019/20:

- £120 million will be transferred from the health portfolio to the Local Authorities in-year for investment in integration, including delivery of the Living Wage and uprating free personal care, and school counselling services; and
- £40 million has been included directly in the Local Government settlement to support the continued implementation of the Carers (Scotland) Act 2016 and to extend free personal care for those under the age of 65.

Enquiries

All enquiries relating to this circular should be emailed to adultsocialcare@gov.scot or by telephone on 0131 244 5403.

This circular is also available on the SHOW website at https://www.sehd.scot.nhs.uk/publications/CC2018_03.pdf.

Yours faithfully

Jamie MacDougall

JAMIE MACDOUGALL
Deputy Director
Care, Support and Rights Division
Health and Social Care Integration

GUIDANCE ON FREE PERSONAL AND NURSING CARE IN SCOTLAND FOR ADULTS

GUIDANCE FOR LOCAL AUTHORITIES, THE NHS BOARDS AND HEALTH AND SOCIAL CARE PARTNERSHIPS (HSCPs) AND OTHER SERVICE PROVIDERS

December 2018

(Electronic version https://www.sehd.scot.nhs.uk/publications/CC2018_03.pdf)

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Annex C	Extract: The Public Services Reform (Scotland) Act 2010



1. INTRODUCTION

1. This guidance is an update of the Free Personal and Nursing Care in Scotland guidance and details action required for the extension of Free Personal Care to all adults under the age of 65. This replaces the guidance in circular No. CCD5/2003. This policy is to be implemented nationally by 1 April 2019.

Background

2. Free Personal Care for those aged 65 or over was introduced in Scotland in 2002, following the passing of the Community Care and Health (Scotland) Act 2002 (“the 2002 Act”). The policy was reviewed by Lord Sutherland in 2008, and as a result, additional funding was provided to local authorities by the Scottish Government. The Free Personal and Nursing Care payment rates for people who are self-funders residing in care homes have been updated periodically in line with inflation.
3. The Scottish Government conducted a feasibility study into extending free personal care to people under the age of 65 which was [published](#) in September 2017. The study showed that extending free personal care was an option which could have important benefits for many of those who are charged for this support, including increased uptake of services, and would ensure that charging arrangements for personal care apply equally regardless of age, condition or means. In addition, other people who may in the past have declined support due to concerns about the cost would be able to receive that care, if eligible.
4. The First Minister during her Programme for Government announcement on 5 September 2017 declared that the Scottish Government would over the next year begin work to fully implement what had now become known as Frank’s Law, by extending free personal care to those aged under 65 who are assessed as needing this service, regardless of age, condition or means. The Programme for Government stated that the Scottish Government would work with the Convention of Scottish Local Authorities (COSLA) and a range of stakeholders to shape the implementation of this policy.
5. Scottish Government officials established an Implementation Advisory Group (IAG) to advise on the delivery of the extended policy.
6. A significant number of adults under the age of 65 already receive their personal care free of charge because of their income and assets in line with local charging policies, however the government’s aim was to ensure that local authorities would be required to provide free personal care to all eligible adults by 1 April 2019.
7. This guidance has been prepared by the Scottish Government with input from the IAG which includes representatives from the Scottish Government, COSLA, HSCPs, local authorities, service providers and supported people.

Legislative Framework



8. The Social Work (Scotland) Act 1968 (“the 1968 Act”) sets out the legislative framework stating *“It shall be the duty of every local authority to promote social welfare by making available advice, guidance and assistance as may be appropriate for their area.”* The 2002 Act provides the legislative backing to provide personal care free of charge. However The Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002 (“the 2002 Regulations”) qualifies this by providing that local authorities only require to not charge for personal care for those persons aged 65 years or over. The Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 revokes regulation 3 of the 2002 Regulations, removing this qualification, thereby extending personal care entitlement to all adults who are assessed by the local authority as needing this service, free of charge.
9. Schedule 1 of the 2002 Act in conjunction with section 20 of Schedule 12 of the Public Service Reform (Scotland) Act 2010 (“the 2010 Act”) provides the definition of personal care which is shown at Annex B and C. The Acts and explanatory notes are available through HMSO or on www.scotland-legislation.hmso.gov.uk
10. The Social Care (Self-directed Support) (Scotland) Act 2013 (“the 2013 Act”) places a duty on local authorities to adhere to the general principles of the 2013 Act:
 - a. A supported person must have as much involvement as they wish, in relation to their assessment of needs for support or services and the provision of support or services.
 - b. A supported person must be provided with any assistance that is reasonably required to enable them to express any views they may have about their options for self-directed support and to make an informed choice when choosing an option for self-directed support.
 - c. Local authorities must collaborate with a supported person in relation to the assessment of their needs for support or services and the provision of support or services for the supported person.
11. After the local authority has identified the supported person’s needs in collaboration with the adult, the local authority must offer four options in relation to any relevant support identified at the assessment stage. The four options provided under the 2013 Act are:
 - Option 1 The making of a direct payment by the local authority to the supported person for the provision of support.
 - Option 2 The selection of support by the supported person, the making of arrangements for the provision of it by the local authority on behalf of the supported person and, where it is provided by someone other than the local authority, the payment by the local authority of the relevant amount in respect of the cost of that provision.
 - Option 3 The selection of support for the supported person by the local authority, the making of arrangements for the provision of it by the authority and, where it is provided by someone other than the authority, the payment by the authority of the relevant amount in respect of the cost of that provision.



- Option 4 The selection by the supported person of Option 1, 2 or 3 for each type of support and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of the support.

Key Aspects of the Policy

Transition from Child to Adult Services

12. Currently children are not charged for any social care (either personal or non-personal) up to the point that they transition from children's social work services to adult social work services, which can be at any point between their 16th and 18th birthdays for children not looked after by local authorities, depending on the service provided by the local authority.
13. Young people who have been looked after until their 16th birthday are entitled to support in order to smooth the transition to adulthood, in terms of duties in the Children (Scotland) Act 1995, as extended by the Children and Young People (Scotland) Act 2014. This assists such young people to access appropriate support, including personal care. Specifically, "continuing care" is the right to the same accommodation and assistance that the young person was being provided with immediately before ceasing to be looked after. This applies until age 20 (though this age limit will from April 2019 be raised to age 21) unless the young person chooses to leave the accommodation before then.
14. If a young person is not being provided with "continuing care", then, up to age 19, the young person is entitled to "aftercare" which is advice, guidance and assistance. From age 19 until age 26, some elements of aftercare can be provided by a local authority on a discretionary basis.
15. The extension of Free Personal Care to under 65s will mean that all children and young adults between 16 and 18 years of age will, from 1st April 2019, be eligible to receive their personal care without charge.

Implementation

16. Implementation can be put into 2 broad categories:
 - a. **Care at home** - arrangements for adjusting local authority systems to take into account the personal care for those receiving care in their home.
 - b. **Care Home Provision** - arrangements for flat rate payments for personal care and/or nursing care for those in receipt of care home services who currently meet their own care costs.

17. The key aspects of the extended policy are:

For those living in their own home

18. All eligibility for free personal care is subject to an assessment by the local authority. No local authority charge will be made for such personal care services after 1 April 2019. Eligibility for free personal care is made irrespective of income, capital assets, marital status or the care contribution currently provided by an unpaid carer. Non

personal care services will continue to be subject to charges at the discretion of the local authority as set out in the current guidance for non-residential charges as issued by COSLA.

For those living in a care home

19. The provision of payments towards personal care will apply to those who pay their own care costs (self-funders). Arrangements for those already resident in care homes on 1 April 2019 are set out in paragraphs 22 and 23 of Section 2 of this guidance. For those assessed as eligible for personal care payments, these will be paid directly to the care home by the local authority.
20. For those people who are self-funders entering a care home after 1 April 2019, an assessment will be required to be carried out before they become eligible for personal and/or nursing care payments. People who are self-funders will continue to pay the remainder of their own costs, often described as living or accommodation costs.

Attendance Allowance, Disability Living Allowance and Universal Credit (care components) when residing in a care home

21. It is important to clarify that social security benefits legislation provides that where a supported person receives funding towards the cost of their place in a care home from a public source, payment of Attendance Allowance and the care components of Disability Living Allowance and Universal Credit must cease 4 weeks after the funding starts. It is the responsibility of the person or person's family who has moved to a care home to report receipt of personal care payments to the Department for Work and Pensions as soon as they start to receive free personal care. If they fail to do so, and continue to receive payments to which they are no longer entitled, they are likely to be required to repay them.

Action required by local authorities/HSCPs

22. This guidance sets out the key actions required by local authorities/HSCP's to ensure measured, consistent and effective implementation across Scotland. Local authorities will need to work closely with a number of agencies including the voluntary and independent sector as well as the NHS and housing providers so they can provide appropriate information and support to their clients.

2. ELIGIBILITY

Assessment

1. Eligibility for free personal and nursing care will be subject to an assessment arranged by the local authority except where the supported person is already in a care home on 1 April 2019 and has already been assessed by the local authority as requiring personal care. For these supported people, arrangements are set out at paragraphs 22 and 23 below.
2. This section focuses on the assessment arrangements local authorities have in place for assessing the care of supported people. This guidance should also be read in conjunction with the 1968 Act and the 2013 Act. Any reference to an assessment should be understood in the context of the implementation of multi-agency assessment, which aims to ensure the care requirements of the supported person are identified as quickly and effectively as possible and that they are focussed on personal outcomes. Supported people's assessments should be distinct from any financial assessment, which is addressed separately in section 3 of this guidance.
3. The underpinning principle for identifying the supported person's specified care needs is to put in place a personalised support plan. Authorities should therefore foster this approach when responding to referrals and applications for funding. In other words in order to receive a payment for personal care the supported person must have received an assessment in order to ascertain whether the care in place, including personal care, is the most appropriate. As determined by the 2013 Act, the person will be fully involved in this process and supported to make informed choices. Authorities will need to be clear in their local policies and protocols that funding for personal care will only be available for supported people whose needs have been assessed. Local authorities must take carers' views into account so far as it is reasonable and practicable to do so in assessing the needs of the supported person and in deciding whether and how to provide services for the supported person.

Care at Home

4. By 1 April 2019, local authorities will be responsible for making payments, or no longer charging for the personal care element of a support package. Local authorities will already have in place mechanisms for the assessment of need and provision of care services based on that need. The implementation of free personal care should build on these mechanisms.
5. Local authorities will already know the identified support in place for existing supported people over the age of 65 in their areas. There will be systems in place for monitoring and reviewing supported people's care requirements and there is no reason why the implementation of the extension of free personal care policy should require re-assessments for existing supported people over the age of 65, unless a supported person requires or requests a review. However action will be required to determine the personal care element of a supported person's needs under the age of 65, to ensure those who are eligible for free personal care do not pay for this component. Guidance on payment mechanisms is set out in section 5.
6. Local authorities should therefore provide clear guidance for staff relating to what constitutes personal and non-personal care. This guidance should also include timescales for assessments as well as guidance on service provision and service payments.
7. HSCPs, local authorities and NHS Boards will have agreements in place on how personal care services are provided locally and by whom. The implementation of the



extension of free personal care to those under the age of 65 may necessitate a review of existing provisions and strategic plans.

Definition of Personal Care

8. Section 1 and Schedule 1 of the 2002 Act provide that local authorities are not to charge for personal care provided by them.
9. In legal terms, the definition of personal care covers both personal care and personal support (as defined in the 2010 Act). The 2002 Act requires that neither personal care nor personal support shall be charged for. In addition, it specifies that no charge should be made for the specific types of care listed in Schedule 1 to the 2002 Act as shown in **Annex B**.
10. The following guidelines offer further explanation of the components of personal care and should be read in conjunction with the relevant legislative provisions.

Personal Hygiene

11. Assistance with washing as well as bathing and showering is included.

Continence Management

12. Help with the use of continence equipment is included.

Problems of Immobility

13. Only care provided to deal with the effects of immobility which directly meets a supported person's care needs as defined in the 2002 Act is included (ie personal hygiene, continence management, eating, simple treatments and personal assistance tasks).

Food and Diet

14. The 2002 Act provides that charges may not be applied to the preparation of, or the provision of any assistance with the preparation of, a person's food including (without prejudice to that generality) –
 - defrosting, washing, peeling, cutting, chopping, pureeing, mixing or combining, cooking, heating or re-heating, or otherwise preparing food or ingredients;
 - cooking, heating or re-heating pre-prepared fresh or frozen food;
 - portioning or serving food;
 - cutting up, pureeing or otherwise processing food to assist with eating it;
 - advising on food preparation; and
 - assisting in the fulfilment of special dietary needs, but not the supply of food (whether in the form of a pre-prepared meal or ingredients for a meal) to, or the obtaining of food for, the person, or the preparation of food prior to the point of supply to the person.

Simple Medical Treatments

15. The 2002 Act provides that charges may not be applied for assisting with simple medical treatment or medication, for example -.

- applying creams or lotions;
- administering eye drops;
- applying dressings in cases where this can be done without the physical involvement of a registered nurse or of a medical practitioner;
- assisting with the administration of oxygen as part of a course of therapy.

Equipment & Adaptations

16. This policy is related to the provision of social and nursing care not the provision of equipment and adaptations. For the purposes of this policy only memory and safety devices which help supported people to manage their own personal care are included¹ (eg the use of personal reminder systems to allow supported people to manage their medicines or the use of sound/movement alarms linked to light controls to guide people with dementia to the toilet and minimise the risks related to wandering at night). Community alarms and other associated devices are not included in this policy.

Personal Support

17. Personal support, is defined at paragraph 20 of schedule 12 of the 2010 Act as shown at **Annex C** and means counselling, or other help, provided as part of a planned programme of care.

Housing Support Services

18. Housing Support Services help people to manage their home and can include help with issues such as claiming welfare benefits, completing forms, managing a household budget, keeping safe and secure and getting help from other specialist services. This support is non-personal care.

19. In practice housing support is often provided as part of a package of care which may include some services which are personal care. From a local authority perspective, housing support services which focus on helping a supported person to manage their home, should be clearly distinguishable from personal care services. In those situations where a single provider is delivering both housing support and personal care it may be harder to distinguish between personal and non-personal elements. Care should be taken to avoid additional administration which could become burdensome for the local authority or support provider.

20. Some local authorities may already separately record details of personal and non-personal care and may be able to use existing arrangements to manage and adjust charges. All local authorities should ensure that they can differentiate the various elements within a care package in terms of chargeable and non-chargeable items. Local authorities can then calculate the revised charge using their charging regime. It is recognised that this process will vary from authority to authority and local authorities will need to decide how best to undertake this task.

Care Home Care

¹ [Guidance on the Provision of Equipment and Adaptations \(CCD5/2009\)](#)

21. From 1 April 2002, supported people who apply for payment towards their care home provision, are required to have a comprehensive needs assessment carried out, to ascertain how best their care needs may be met, and whether a care home is the most appropriate setting. In some cases the outcome of the assessment may determine that the supported person's needs could be met in their own home. To ensure supported people and their families have complete clarity, local authorities should ensure there are clear protocols and guidance for staff as well as encouraging care home owners and managers to ensure prospective self-funding residents are aware of the parameters for public funding.

Arrangements for those already in a care home

22. Those aged 65 and over who pay their own care home provision (self-funders) may wish to have their support plan assessed by the local authority to potentially access free personal care. From 1 April 2019 those under the age of 65 will be required to be assessed by their local authority in order to potentially access free personal care. Supported people who wish to seek the flat rate payments towards their care costs will have to notify the local authority in which they are resident. The rates for these payments are identified in The Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002, as amended from time to time.

23. The extension of free personal care will not change the existing charging arrangements for care home provision under the National Assistance Act 1948 and the National Assistance (Assessment of Resources) Regulations 1992 (as amended for Scotland). These are set out in more detail in Section 3.

Local eligibility criteria and priorities

24. Local authorities will need to have in place agreed eligibility criteria for assessments of need and priorities for the provision of and access to services based on need, which adhere to the [National Standard Eligibility Criteria and Waiting Times for the Personal and Nursing Care of Older People Guidance from 2009](#), which now applies to supported adults of any age. Many authorities will have these in place already and there is no requirement on authorities to change these arrangements. Local authorities are expected to ensure that their available resources are used in the most effective way to meet supported people's personal outcomes. Where local authorities have problems providing appropriate support they should have arrangements ready to meet, manage, or review personal care needs.

Supported People currently receiving care at home services via their local authority

25. In preparation for the implementation of the extension of this policy, local authorities will need to inform supported people currently receiving care at home services about the level of personal care and non-personal care they receive. While a reassessment of care may be necessary in some cases, according to individual circumstances, it is envisaged that a review of the person's financial contribution using existing mechanisms may be sufficient. Local authorities will then have to calculate whether there needs to be an adjustment to any charges the supported person is currently paying for their care package. Guidance on charging is set out in Section 3.

Supported People currently arranging their own care home provision

26. Supported people who currently arrange their own services and who wish to access free personal care will only be able to do so following a care assessment arranged by the local authority. Delivery of care must be based on local protocols and when the local authority is in a position to provide for the required services. Access to assessment for supported people should also be prioritised in line with local criteria.
27. In some cases an assessment arranged by the local authority may find the supported person receives services over and above their level of need according to the assessment. (The supported person may have made private arrangements for these services). The local authority will provide a contribution towards the cost of care up to the level of assessed need only and in line with local criteria for range, level and frequency of service provision.
28. Guidance on payment mechanisms for those who are currently arranging their own care and who are subsequently assessed as needing personal care services and wish to continue with the same providers is set out in Section 5.

Monitoring and Reviewing Care Needs

29. Local Authorities will have formal monitoring and review systems and time-scales in place to respond to the changing care needs of supported people. These systems should reflect the Health and Social Care Standards and the Quality Framework for Care Homes for Older People, the latter of which the Care Inspectorate introduced on 30 July 2018. Protocols should be clear to staff who are responsible for responding to individual circumstances where a supported person's care requirements may have suddenly changed due to a crisis in their situation, for example because of the onset of an acute illness, or the death of a main carer.

Training

30. Local authorities and other organisations should ensure that staff training and development is given a high priority on joint training agendas for those staff involved in the assessment and planning process.

Clarity of information

31. Local authorities will need to be clear in their local policies and priorities. As part of their on-going public information strategies, local authorities should make explicit that a contribution towards a supported person's care costs will be set according to the requirements that are identified at the time of the practitioner's assessment and will be in line with local protocols.
32. Local authorities will also need to provide clear information on what constitutes personal care, on criteria for eligibility for services and on the range, level and frequency of service provision.
33. Local authorities should also consider how a supported person who currently privately arranges their care can be provided with information about how to request an assessment which may act as a passport to receiving free personal care.



3. CHARGING AND INCOME MAXIMISATION

This section of the guidance covers all non-residential care and support services where personal care is offered

Care at Home Services

1. Under the provisions of the 2002 Act, and the 2002 Regulations local authorities will no longer be able to charge adults for the personal care element of care at home services.
2. Other, non-personal care such as personal alarms, remains chargeable and local authorities will need to provide clear information to supported people and their carers on their charges for care at home services.
3. Although the 2002 Act provides powers for the Scottish Government to regulate charging for non-residential care services, the Scottish Government has not exercised this power. This enables local authorities to set charges taking into account local circumstances, and supporting local accountability. COSLA's National Strategy & Guidance, Charges Applying to Non-residential Social Care Services, is published on its website at www.cosla.gov.uk.

Financial Assessment for those receiving Care at Home

4. Prior to the implementation of the extension of free personal care, local authorities will put in place a process which identifies personal and non-personal care.
5. Local authorities must ensure they do not take for granted the care contribution currently being made by an unpaid carer, and that any reassessment takes account of the amount of care an unpaid carer is willing and able to provide.²
6. Once the level of non-personal care has been identified, local authorities should calculate the revised charge by applying this to their charging regime. It is recognised that the scale of this process will vary between local authorities and decisions may need to be taken by each local authority on how best to undertake this task. However, it must be stressed that all charges for personal care will cease from 1 April 2019.

Providing Information on Charging Policies

7. All local authorities must provide clear information on their charging policies. This will help supported people, their carers and their families understand how their charges are calculated and how the local authority will collect the charges.
8. Information on their policies for waiving and abating charges, how to apply for these and the method used to consider such requests and review the decisions of the local authority should also be included in the material. Information on the local authority complaints process should also be provided and details of how to contact the [Scottish Public Services Ombudsman](#) (SPSO) if unsatisfied with a decision made by the local authority.

Income Maximisation

² <http://www.legislation.gov.uk/asp/2016/9/contents>

9. Local authorities are recommended to continue to operate income maximisation services and to continue investing in staffing resources, publicity material, IT systems and training.

This section of the guidance covers care home services where personal care is offered.

Financial Assessment for those in Care Homes

10. The existing care home charging and financial assessment arrangements under the National Assistance Act 1948 and the National Assistance (Assessment of Resources) Regulations 1992 (as amended for Scotland) will remain in place with the exception of free personal and nursing care. Guidance on charges for those residing in Care Homes can be found at Charging for Residential Accommodation Guidance.
11. The local authority contribution to the supported person's total care home costs will continue to take account of the provisions of the 2002 Act and the regulations made under that Act. In practice there will be 3 main cases as follows:
 - a) *People who currently receive care funded by the local authority and contribute only their state pension and benefit income;*
 - b) *People who currently receive care supported by the local authority but who contribute a greater amount, from sources in excess and out with their income which may include their state pension, tariff income, income from capital between the lower and upper capital limits or other income such as occupational pension;*
 - c) *People who currently fund their care home fees in full because they have capital over the upper capital limit.*
12. Where following the financial assessment, the local authority contribution to the total care home costs of people **without** nursing care is less than the sum specified in the 2002 Regulations, as amended from time to time, it will need to be increased to the amount provided for in the regulations.
13. Similarly, where the local authority contribution to the total care home costs of those needing personal **and** nursing care is less than the sum specified in the 2002 Regulations, it will need to be increased to the sum specified in the 2002 Regulations.
14. Those who fund their care home fees in full may receive free personal and nursing care payments however they will need to request an assessment to be carried out. If the assessment finds the person eligible for personal care and/or nursing care, this will be provided directly to the care home.

4. CONTRACTS

1. This Guidance cannot cover all the potential issues that may arise around contractual arrangements or provide information on the ongoing work around contracts. In practice, there will be a number of contractual matters that will require clarity. As a general rule, these issues should be resolved locally.

Care at Home

2. The 2013 Act puts a duty on the local authority to provide 4 options to all adults eligible for support or provided with services at home.
3. The options are intended to provide a framework in which a local authority can meet its social welfare and wellbeing duties relating to adults in a flexible and creative way.
4. The 2013 Act provides 4 options for contractual arrangements for supported people, local authorities and provider agencies in relation to payments for personal care at home. Supported people must be able to choose which option they wish to take. This will require flexibility in approach from local authorities and voluntary and independent care providers.
5. These options should also be open to the supported person for their personal care requirements. For more detail on these options please refer to the Statutory guidance which accompanies the [2013 Act](#).

Care Homes

6. The extension of free personal and nursing care to adults under age 65 will require local authorities to put in place contractual arrangements for those who under current financial assessment arrangements would not qualify for public sector support towards their care home services. Supported people under the age of 65 would not have previously been included in the existing arrangements between local authorities and the voluntary and independent care sectors. People who are self-funders may also decide at any time to apply to local authorities for an assessment of eligibility for free personal care.
7. Current contractual arrangements between local authorities and provider agencies are complex and varied, particularly those providing care home services. For further information relating to contracts please refer to Competition and Marketing Authority's (CMA) Guidance on unfair contract terms at [Unfair contract terms: CMA37](#). Other information on the CMA's consumer protection powers can be found in [Consumer protection enforcement guidance: CMA58](#).
8. The CMA carried out a market study into care homes for the elderly, to review how well the market works and if people are treated fairly. The [CMA has published consumer law advice for care home providers which has been produced with the involvement of the care sector, COSLA and the Scottish Government](#) to help care homes to meet their obligations under consumer law.

Routes for contractual arrangements

9. Supported people must be able to choose how their care home services are arranged, whether by arranging directly themselves, or with the assistance of their local authority. This will require flexibility in approach from local authorities and voluntary and independent care providers. Please refer to the current Guidance on Charging for Residential Accommodation issued by the Scottish Government as an annual circular.

Information for supported people

10. Section 9 of the Social Care (Self-directed Support) (Scotland) Act 2013 provides that, where a local authority has given a supported person an opportunity to choose one of the options for self-directed support it must give the supported person an explanation of the different options along with information about how to manage support. In addition, the local authority must provide information about organisations who can help the supported person understand what care and support is available, help them make decisions about the options and provide information on how to manage support. Such organisations include those providing voluntary sector independent support.
11. Local independent support organisations can be found through the “Get help” button on Self Directed Support Scotland’s website: <https://www.sdsscotland.org.uk/>. Scottish Government has funded 30 independent support services until 2021, and others are funded by local authorities or run on a voluntary basis by supported people.
12. Many voluntary sector organisations for disabled people and older people can also offer advice through websites or phone lines. The following websites provide this information and further signposts:
 - Care Information Scotland
 - Age Scotland
 - Alzheimer Scotland
 - Scottish Government



5. PAYMENT MECHANISMS

1. All local authorities have in place payment mechanisms for both care at home and care home care and these should be indicative of self-directed support payment mechanisms, which can be found in the 2013 Act [guidance](#).
2. Each payment mechanism will involve a range of systems including:
 - a contract or agreement with the supported person, or private and voluntary sector agency about the use of money;
 - billing systems/invoices; and
 - payment of the money into relevant bank accounts, either personal or agency.

Ordinary Residence

3. Where a supported person has been assessed as needing personal and/or nursing care by a local authority under section 12A of the [1968 Act](#), and the care is provided under this Act, the supported person cannot be charged for the care covered by section 1 of the [2002 Act](#).
4. The costs of providing free personal and nursing care services to a supported person who is ordinarily resident in another local authority area can be recovered from that other local authority.

Cross-border placements

5. Scottish local authorities will occasionally make arrangements for supported people who are ordinarily resident in their area to be placed in care homes in England, Wales or Northern Ireland. In such circumstances the supported person will be eligible for personal and nursing care payments from the Scottish placing local authority. Placements in Scotland of people ordinarily resident in local authority areas in England, Wales and Northern Ireland will not be eligible for personal and nursing care payments. Funding responsibility for such placements rests with the English, Welsh or Northern Ireland placing local authority. It is important to note that there are established UK wide principles determining "ordinary residence" and these continue to apply in respect of funding responsibility for personal and nursing care payments. Further information on this is provided in the published guidance [CCD3/2015](#).

Hospital admission

6. When a supported person is admitted to hospital from a care home, the local authority will continue to make personal and nursing care payments at full rate for 2 weeks after admission. When a supported person is admitted to hospital from their own home and is receiving direct payments for their personal care, the local authority will continue to make payments for personal care for 2 weeks after admission.

Supported people who have privately contracted to pay for more service than they have been assessed as needing

7. Staff in local authorities, particularly those involved in care and finance assessments, should understand clearly that payments for nursing care and/or personal care can only

be made on the basis of the assessment which sets out the services that the supported person needs.

8. If the supported person has already agreed or in future agrees to a more comprehensive or a greater package of care than the assessor decides is required, either in their own home or in a care home, the supported person can pay for that service from their own resources, in a separate financial arrangement with the independent sector provider. This applies both to care home and care at home arrangements.
9. Supported people living in their own homes in the community are not eligible for nursing care payments.

Start date of payments and retrospective payments

10. Payments will commence once the personal and/or nursing care service is being provided or when the supported person moves into a care home and is provided with personal and/or nursing care. It does not start before and will not be backdated for example, to the date of referral or assessment.
11. People who fully fund their own personal care services will be required to contact their local authority to arrange an assessment to confirm whether they are eligible for free personal care, if they wish to receive the benefit of free personal care.

Free home care for up to 4 weeks after discharge from hospital

12. Under existing arrangements, supported people are entitled to up to 4 weeks free home care (covering personal and non-personal care) after discharge from hospital. The extension of free personal and/or nursing care will make no difference to these arrangements.

Opting in/out of the payment system for personal care and/or nursing care

13. It is the supported person's responsibility to approach the local authority if they want to seek public sector support for their care costs. If a supported person is resident in a care home and is in receipt of Attendance Allowance or receives the care components of Disability Living Allowance, Universal Credit or Personal Independence Payment, they must notify the Department for Work and Pensions accordingly so these can be stopped in accordance with the rules.
14. It is the responsibility of the local authority to make payments to provider agencies and supported people. Service providers can notify the local authority on behalf of existing people who are self-funders provided the person agrees. With new applications for payments, it is the responsibility of the supported person or someone acting on their behalf and with their consent to ask for an assessment. This can be a carer, advocate or provider.

Payments for short-term nursing care and personal care

15. There may be occasions where a supported person needs to have personal and/or nursing care on a short-term basis:

- for respite care;

- in an emergency or crisis, for instance if a carer or relative is suddenly taken ill and is unable to look after the supported person; and
- for a trial period - to explore whether they would prefer to move into a care home on a permanent basis.

16. For these short-term requirements, local authorities should satisfy themselves that the supported person's care is being properly met. Payments for personal and/or nursing care should be paid on the basis of the records kept either by the local authority or the care home which should indicate the level of need. A guiding principle here should be that the supported person should not be treated any less generously under these arrangements than they would otherwise have been.

Temporary absence from free personal and/or nursing care

17. There may be occasions when a supported person requires to be hospitalised or is placed in another form of care and therefore receives care financed from other public funds.

18. On these occasions the care provider has a duty, as soon as reasonably practicable (but in any event no later than the next working day) inform the local authority.

19. The local authority will continue to pay the contract of care for a period of 14 days from the commencement of the supported person's absence, with day 1 being counted as the day the supported person is moved to another form of care.



6. Monitoring and Analysis

1. Monitoring and analysis of the extension of free personal care will be carried out by the Scottish Government. Monitoring of the extended policy of free personal care to adults will commence from 1 April 2019. Arrangements by local authorities will require to be put into place to carry out this monitoring and analysis. The monitoring and analysis will not cover issues such as contract compliance as this should continue to be undertaken according to locally agreed practice.
2. This monitoring and analysis will help to identify the impact of the extension of free personal care, which will inform future budgets and development of the policy.



Community Care and Health (Scotland) Act 2002

[ANNOTATED EXTRACT]

Part 1 Community Care

1 Regulations as respects charging and not charging for social care

(1) Subject to subsection (2)(a) below, a local authority are not to charge for social care provided by them (or the provision of which is secured by them) if that social care is—

(a) personal care as defined in schedule 12 paragraph 20 of the Public Services Reform (Scotland) Act 2010 [*“personal care” means care which relates to the day to day physical tasks and needs of the person cared for (as for example, but without prejudice to that generality, to eating and washing) and to mental processes related to those tasks and needs (as for example, but without prejudice to that generality, to remembering to eat and wash)*];

(b) personal support as also defined in Schedule 12 paragraph 20 of the 2010 Act [*“personal support” means counselling, or other help, provided as part of a planned programme of care*];

(c) whether or not such personal care or personal support, care of a kind for the time being mentioned in schedule 1 to this Act; or

(d) whether or not from a registered nurse, nursing care.

2 Accommodation provided under 1968 Act etc.

For the purposes of the definition of “social care” in section 22(1) and (2) of the 2002 Act, of sections 22 (charges to be made for accommodation), 26 (provision of accommodation in premises maintained by voluntary organisations) and 65 (general provisions as to application to Scotland) of the 1948 Act and of sections 86 and 87(2) and (3) (charges that may be made for accommodation) of the 1968 Act, the Scottish Ministers may by regulations determine what is and what is not to be regarded as accommodation provided under the 1968 Act or under section 25 of the 2003 Act (provision of care and support services etc for persons who are or have been suffering from mental disorder).

Part 4 General

22. Interpretation

(1) In this Act

(A) “the 1948 Act” means the National Assistance Act 1948 (c.29); “the 1968 Act” means the Social Work (Scotland) Act 1968 (c.49); “the 2003 Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13); and

(B) “social care” means, subject to subsection (2) below, a service provided (a) under the 1968 Act; or

(b) under section 25 (care and support services for persons who have or have had a mental disorder) or 26 (services designed to promote well-being and social development of such persons) or 27 (assistance with travel in connection with such services) of the 2003 Act.

to an individual by a local authority or a service the provision of which to an individual, under the 1968 Act or any of those sections, is secured by a local authority.

(2) In this Act, “social care” does not include a service which (or so much of a service as) consists of the provision of accommodation; but in the definition of the expression in subsection (1) above, the references to a service being provided are to the provision of any other form of assistance (including, without prejudice to that generality, the provision of advice, guidance or a material thing).



THE COMMUNITY CARE AND HEALTH (SCOTLAND) ACT 2002

Schedule 1

Social Care Not Ordinarily Charged For

[Whether or not personal care (see section 1(1)(a) or personal support (see 1(1)(b))]

- 1 As regards the personal hygiene of the person cared for -
 - (a) shaving;
 - (b) cleaning teeth (whether or not they are artificial) by means of a brush or dental floss and (in the case of artificial teeth) by means of soaking;
 - (c) providing assistance in rinsing the mouth;
 - (d) keeping finger nails and toe nails trimmed;
 - (e) assisting the person with going to the toilet or with using a bedpan or other receptacle;
 - (f) where the person is fitted with a catheter or stoma, providing such assistance as is requisite to ensure cleanliness and that the skin is kept in a favourable hygienic condition;
 - (g) where the person is incontinent -
 - (i) the consequential making of the person's bed and consequential and changing and laundering of the person's bedding and clothing; and
 - (ii) caring for the person's skin to ensure that it is not adversely affected.

- 2 As regards eating requirements, the preparation of, or the provision of any assistance with the preparation of, the person's food including (without prejudice to that generality) -
 - (a) defrosting, washing, peeling, cutting, chopping, pureeing, mixing or combining, cooking, heating or re-heating, or otherwise preparing food or ingredients;
 - (b) cooking, heating or re-heating pre-prepared fresh or frozen food;
 - (c) portioning or serving food;
 - (d) cutting up, pureeing or otherwise processing food to assist with eating it;
 - (e) advising on food preparation; and
 - (f) assisting in the fulfilment of special dietary needs.

But not the supply of food (whether in the form of a pre-prepared meal or ingredients for a meal) to, or the obtaining of food for, the person, or the preparation of food prior to the point of supply to the person.

- 3 If the person is immobile or substantially immobile, dealing with the problems of that immobility.

- 4 If the person requires medical treatment, assisting with medication, as for example by
 - (a) applying creams or lotions;
 - (b) administering eye drops;
 - (c) applying dressings in cases where this can be done without the physical involvement of a registered nurse or of a medical practitioner;
 - (d) assisting with the administration of oxygen as part of a course of therapy.

- 5 With regard to the person's general well-being -
 - (a) assisting with getting dressed;

- (b) assisting with surgical appliances, prosthesis and mechanical and manual equipment;
- (c) assisting with getting up and with going to bed;
- (d) the provision of devices to help memory and of safety devices;
- (e) behaviour management and psychological support.

[Counselling, or other help, provided as part of a planned programme of care is explicitly included within the definition of personal support (see 1(1)(b))]



THE PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010

Schedule 12, Section 20

Care Services: Definitions

In this schedule, unless the context otherwise requires –

“someone who cares for” (or “a person who cares for”) a person, means someone who, being an individual, provides on a regular basis a substantial amount of care for that person, not having contracted to do so and not doing so for payment or in the course of providing a care service;

“vulnerability or need”, in relation to a person, means vulnerability or need arising by reason of that person –

- (a) being affected by infirmity or ageing;
- (b) being, or having been, affected by disability, illness or mental disorder;
- (c) being, or having been, dependent on alcohol or drugs; or
- (d) being of a young age;

“personal care” means care which relates to the day to day physical tasks and needs of the person cared for (as for example, but without prejudice to that generality, to eating and washing) and to mental processes related to those tasks and needs (as for example, but without prejudice to that generality, to remembering to eat and wash); and

“personal support” means counselling, or other help, provided as part of a planned programme of care.



Amendment to IJB Integration Scheme

Report by Kevin Anderson, Acting Director Resources Services

1 Purpose of Report

This report seeks agreement to the proposed changes to Midlothian IJB Integration Scheme to include the new functions arising from the Carers (Scotland) Act 2016.

2 Background

- 2.1** Under the Public Bodies (Joint Working) (Scotland) Act 2014 there is a requirement placed on Health Boards and Local Authorities to enter into an Integration Scheme. An Integration Scheme sets out how the IJB works in practice including the scope of services delegated to it and the financial arrangements.
- 2.2** The Midlothian Integration Scheme is a legally binding document. It covers a range of matters including its aims and outcomes; governance arrangements, workforce issues and information sharing.
- 2.3** The Midlothian Integration Scheme was approved by Scottish Ministers and the Public Bodies (Joint Working) (Integration Joint Board Establishment) (Scotland) Amendment Order 2015 was laid before the Scottish Parliament on 29th May 2015. This order came into force on 27th June 2015.
- 2.4** The Carers (Scotland) Act 2016 laid new duties and responsibilities on Health Boards and Local Authorities including the duty to prepare Adult Carer Support Plans and Young Person's Statements. There is an expectation that these new duties should be delegated to IJBs. However for legal reasons it is necessary to formalise this delegation of duties.
- 2.5** Following discussion with NHS Lothian agreement has been reached about which duties should be delegated. These are outlined in the revised Integration Scheme on pages 57 and 67; a copy of which is available in the electronic Elected Members' Library within the Committee Management Information System (CMIS) – [click here](#).
- 2.6** The proposed changes were placed on the Council and NHS Lothian websites for a four week period of public consultation ending 12th March 2019. No comments have been received.
- 2.7** Following consideration by Midlothian Council and NHS Lothian the revised scheme will be submitted for approval by Scottish Government

3 Report Implications

3.1 Resource

There are no resource implications arising from this report. The Council have been allocated additional monies for the implementation of the Act and these are being managed through the Health and Social Care Partnership.

3.2 Risk

There are no risks arising from this report

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- Community safety
- Adult health, care and housing
- Getting it right for every Midlothian child
- Improving opportunities in Midlothian
- Sustainable growth
- Business transformation and Best Value
- None of the above

3.4 Impact on Performance and Outcomes

The IJB will be responsible for ensuring that targets related to the support of Unpaid Carers are met. There are a high number of hidden carers in Midlothian and the implementation of the Carers Act will enable the identification and support of more carers.

3.5 Adopting a Preventative Approach

The support of carers is critical in preventing the breakdown of family caring arrangements and resulting increased costs and pressures on public services. This is reflected in a series of legislative and policy documents dating back to 1995 with Carers (Recognition and Services) Act (1995)

3.6 Involving Communities and Other Stakeholders

The changes to the Integration Scheme arise from legislation. A brief period of public consultation was undertaken through the Council website but no comments were received.

3.7 Ensuring Equalities

The Carers Act makes it more likely that carers will be identified and supported

3.8 Supporting Sustainable Development

No issues

3.9 IT Issues

No issues

4 Summary

This report seeks formal approval of the delegation of the duties arising from the Carers Act by Midlothian Council to Midlothian IJB.

5 Recommendations

Council is asked to approve the amendments to the IJB Integration Scheme. Following this, and in liaison with NHS Lothian, the revised scheme will be submitted to Scottish Government for approval.

Date 12/03/2019

Report Contact:

Name Tom Welsh 0131 271 3671 tom.welsh@midlothian.gov.uk

Service Plans 2019/20

Report by Dr Grace Vickers, Chief Executive

1 Purpose of Report

This report seeks approval for the Council's Service Plans for 2019/20.

2 Background

2.1 Councils have a statutory duty, introduced in the Local Government (Scotland) Act 2003 to make arrangements to secure Best Value. Under this legislation each council is obliged to:

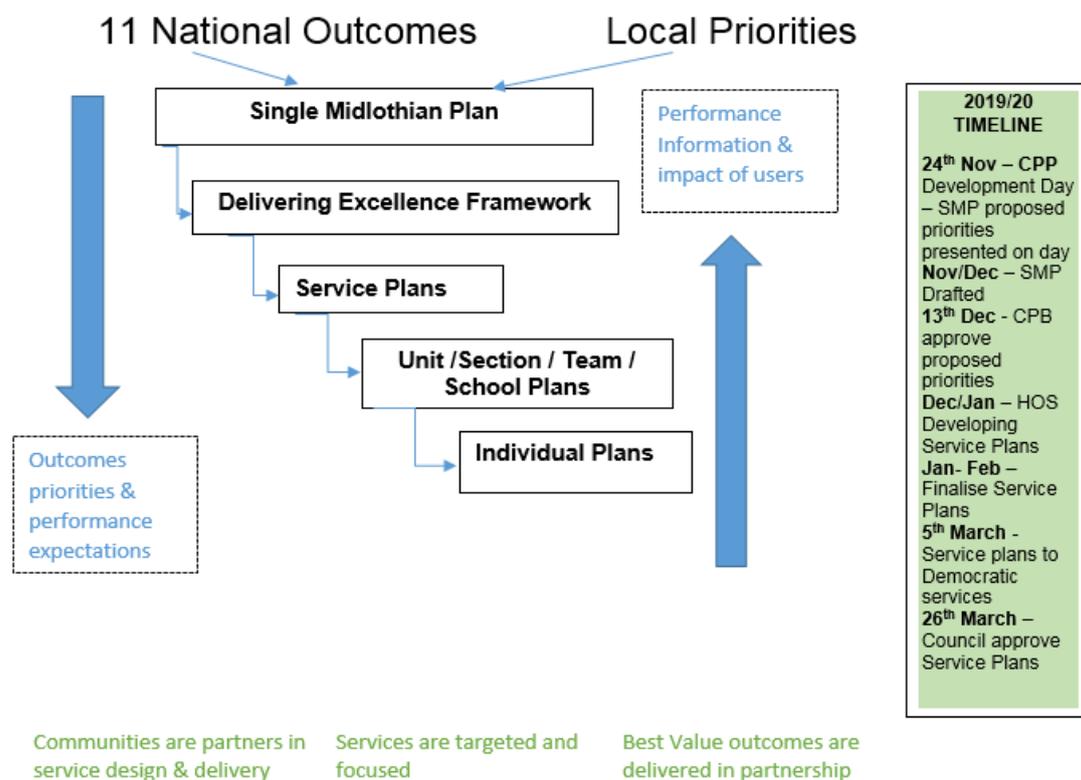
- Work with its partners to identify a clear set of priorities that respond to the needs of the local community and be organised to deliver those priorities.
- Meet and clearly demonstrate that it is meeting the community's needs.
- Operate in a way that drives continuous improvement in all of its activities.

2.2 The Council delivers its priorities through the Community Planning Partnership and the Single Midlothian Plan. Whilst the SMP will come to council in due course, it should be noted that the draft outcomes and priorities for 2019/22 have informed service plan development.

Heads of Service have developed their service plans, managers and performance officers have been working together with community planning colleagues to ensure alignment between service priorities and SMP priorities.

2.3 Figure 1 demonstrates the approach to alignment of the Councils planning process and service plans with the Single Midlothian Plan agreed with Community Planning Partners.

Figure 1



- 2.4 The service plans are available in the electronic Elected Members' Library within the Committee Management Information System (CMIS) – [click here](#).

3 Report Implications

3.1 Resource

Resource implications have been considered and identified during individual Service Plan development.

3.2 Risk

This report seeks to ensure that the Council and partners have strategic and sustainable plans for future service delivery. Heads of Service will consider, on an ongoing basis possible risk exposures to the successful achievement of all priorities.

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- Community safety
- Adult health, care and housing
- Getting it right for every Midlothian child
- Improving opportunities in Midlothian
- Sustainable growth
- Business transformation and Best Value
- None of the above

3.4 Key Priorities within the Single Midlothian Plan

As mentioned previously the Single Midlothian Plan informs all Service Plan activity with a key requirement that all plans demonstrate the services contribution to the SMP outcomes and priorities.

3.5 Impact on Performance and Outcomes

Service plans demonstrate the services contribution to the SMP outcomes and priorities and will provide the basis for ongoing performance management.

3.6 Adopting a Preventative Approach

All plans consider the adoption of a preventative approach to service delivery.

3.7 Involving Communities and Other Stakeholders

Service plans demonstrate the services contribution to the SMP outcomes and priorities and will provide the basis for ongoing performance management.

3.8 Ensuring Equalities

Each service plan is subject to an Integrated Impact Assessment (IIA) which are available within the electronic Members' Library within CMIS.

3.9 Supporting Sustainable Development

The development of the Single Midlothian Plan and Service Plans represents a robust approach to supporting sound planning of council services.

3.10 IT Issues

Specific IT issues are considered within individual Service Plans as appropriate.

4 Recommendations

Midlothian Council is asked to approve the 2019/20 Service Plans

Date: 5 March 2019

Report Contact: Elaine Johnston

Tel No: 0131 270 8926

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Background Papers:

- Service Plans 2019/20 including Integrated impact assessments (IIA's) (in the Members' Library within CMIS)

